

UNITED STATES DISTRICT COURT
IN THE MIDDLE DISTRICT OF NORTH CAROLINA
Misc. Case No. 24MC33



**IN RE MISSION HEALTH
ANTITRUST LITIGATION**

**W.D.N.C. Civil Action No.
1:22-cv-00114-MR-WCM**

**DEFENDANTS' MOTION TO COMPEL PRODUCTION BY NON-PARTY
MULTIPLAN CORPORATION**

NOW COME Defendants HCA Healthcare, Inc.; HCA Management Services, L.P.; HCA, Inc.; MH Master Holdings, LLLP; MH Hospital Manager, LLC; and MH Mission Hospital, LLLP ("HCA Defendants"), together with Defendants ANC Healthcare, Inc. (f/k/a Mission Health System, Inc.) and Mission Hospital, Inc. ("ANC Defendants") (collectively, "Defendants"), by and through their counsel and pursuant to Rules 34 and 45 of the Federal Rules of Civil Procedure, and respectfully move to compel Non-Party MultiPlan Corporation ("MultiPlan") to comply with Defendants' June 18, 2024 subpoenas served on MultiPlan in litigation pending in the United States District Court for the Western District of North Carolina, *In Re Mission Health Antitrust Litigation*, Civil Action No. 1:22-cv-00114-MR-WCM.¹ Specifically, Defendants move to compel

¹ A true and correct copy of Plaintiffs' Consolidated Class Action Complaint (*In Re Mission Health Antitrust Litigation*, 1:22-cv-00114-MR-WCM, ECF No. 43), is attached hereto as **Exhibit 1-1**. Defendants are also parties to an action filed in the North Carolina Superior Court for Buncombe County, in which the plaintiffs allege conduct similar to that alleged in *In Re Mission Health*. See *Davis, et al. v. HCA*

MultiPlan to comply with Defendants' subpoena by producing, within 21 days, all documents and information responsive to Defendants' Document Request Nos. 1-6, 7(a)-(c), 8, 9(a)-(h), 11, and 15-16 (the "Selected Document Requests"). In support of this Motion, Defendants show the following:

1. As part of discovery in *In Re Mission Health Antitrust Litigation*, No. 22-CV-00114 (W.D.N.C.) and *Davis, et al. v. HCA Healthcare, Inc., et al.*, No. 21-CVS-3276 (N.C.B.C.), Defendants served subpoenas on MultiPlan on June 18, 2024 (the "Subpoenas"). *See* Exhibit 3-1 to the Declaration of Phillip T. Jackson ("Jackson Decl."), filed concurrently herewith.
2. The Subpoenas command MultiPlan to produce certain documents and information in Raleigh, North Carolina, on July 18, 2024. *See id.*
3. Pursuant to Local Civil Rule 37.1(a), after serving the Subpoenas, counsel for Defendants consulted with counsel for MultiPlan and made diligent attempts to resolve the differences in the parties' positions on discovery. A copy of Defense Counsel's Rule 37.1 Certification is attached hereto as **Exhibit 1-3.**² *See also* (Jackson Decl. ¶¶ 3-18).

Healthcare, Inc., et al., Buncombe County No. 21-CV-03276 (N.C.B.C.) Second Am. Compl. (Dkt. No. 93). A true and correct copy of the Second Amended Complaint in *Davis* is attached hereto as **Exhibit 1-2**.

² The undersigned further certifies that Defense counsel's consultation efforts amounted to compliance with Local Rule 7.1 for the Western District of North Carolina, which requires Defense counsel to, in good faith, meet and confer with

4. Despite Defense counsel's diligent attempts to obtain MultiPlan's compliance with the Subpoenas without court action, to date, MultiPlan has produced only a single contract template in response to the Subpoenas. (*See* Jackson Decl., Ex. 3-10).
5. On November 7, 2024, counsel for MultiPlan confirmed that the parties were at an impasse with respect to MultiPlan's obligations under the Subpoenas. *See id.* After additional internal discussions and attempted correspondence with counsel for MultiPlan, on December 20, 2024, Defense counsel informed counsel for MultiPlan that Defendants intended to file this Motion to Compel. (*See* Jackson Decl. 3-12).
6. Defendants filed concurrently herewith a Brief in Support of Defendants' Motion to Compel (the "Brief"). As explained in the Brief, the documents and information sought via Defendants' Subpoenas are relevant to Plaintiffs' claims and Defendants' defenses and are proportional to the needs of this case. By producing only a single document, MultiPlan has failed to comply with its obligations under the Subpoenas.
7. For the reasons discussed in the Brief, Defendants' request that the Court compel MultiPlan's production of all documents and information responsive

counsel for MultiPlan in an effort to resolve areas of disagreement as to MultiPlan's obligations and obtain MultiPlan's compliance with the Subpoenas without court action. *See* **Exhibit 1-3**.

to Defendants' Selected Document Requests.

WHEREFORE, Defendants respectfully request that the Court enter an Order as follows:

1. Compelling MultiPlan to produce, within 21, days, all documents and information responsive to the following Document Requests contained in Defendants' Subpoenas:
 - a. Document Request Nos. 1-6
 - b. Document Request No. 7(a)-(c)
 - c. Document Request No. 8
 - d. Document Request No. 9(a)-(h)
 - e. Document Request No. 11
 - f. Document Request Nos. 15-16
2. Requiring MultiPlan to pay Defendants' reasonable expenses in making this Motion, including attorneys' fees.
3. For any other relief as the Court deems just and proper.

[signatures on following page]

This, the 23rd day of December, 2024.

Respectfully submitted,

/s/ Phillip T. Jackson

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing ***Motion to Compel Production by Non-Party MultiPlan Corporation*** was served, via electronic mail, upon counsel for MultiPlan Corporation and all counsel of record in *In Re Mission Health Antitrust Litigation*, 1:22-cv-00114-MR-WCM as follows:

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This, the 23rd day of December, 2024.

ROBERTS & STEVENS, P.A.

/s/ Phillip T. Jackson

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